



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

Paper No. 6

Andrew S. Marks  
c/o Vertex Pharmaceuticals Incorporated  
130 Waverly Street  
Cambridge, MA 02139-4242

**COPY MAILED**

**JUN 23 2004**

**OFFICE OF PETITIONS**

In re Application of :  
Kuida :  
Application No. 09/728,173 : ON PETITION  
Filed: December 1, 2000 :  
For: CASPASE-9 DEFICIENT ANIMALS :  
AND THE USE THEREOF :

This decision is in response to the petition under 37 C.F.R. § 1.137(b) filed April 28, 2004.

The petition is GRANTED.

This application became abandoned May 8, 2001 for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed March 7, 2001. The Notice set a two month shortened statutory period of time for reply. No petition for an extension so time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment May 23, 2003.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

As to item (1), petitioner has submitted the required declaration and surcharge. Review of the application file does not indicate submission of Figure 7 referenced in the Notice. Accordingly, failure to timely file a petition as set forth in the Notice will be treated as constructive acceptance of the application as deposited in the PTO.

As to item (2), the required petition fee and surcharge have been charged to petitioner's deposit account as authorized in the instant petition.

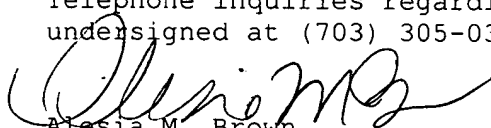
As to item (3), the required statement of unintentional delay was included with the instant petition.

Item (4) is inapplicable to the instant application.

Hence, the petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.



Alesia M. Brown  
Senior Petitions Attorney  
Office of Petitions